



**Water Act\***  
**Administrative Guideline for Transfer of  
Water Allocations (and Agreements to Assign  
Water, and Licence Amendments)**

*Volume 2.0*  
*Revised November 2014*

---

<b>Title:</b>	<b>Administrative Guideline for Transfer of Water Allocations (and Agreements to Assign Water, and Licence Amendments)</b>
<b>Number:</b>	<b>Water Quantity, 2014, No. 4</b>
<b>Program Name:</b>	<b>Water</b>
<b>Effective Date:</b>	<b>August 2003</b>
<b>This document was updated on:</b>	<b>Nov 2014</b>

\*References to acts and regulations are based on content on the issue date of this guideline. Up-to-date information on amendments or other changes is available from the Alberta Queen's Printer or the Department. The *Water Act* and *Water (Ministerial) Regulation* should be consulted for all purposes of interpreting and applying the law.

ISBN No.: 978-1-4601-1525-1

## Table of Contents

<b>Preamble</b> .....	4
Guideline Intent.....	4
<i>Water Act</i> provisions .....	5
Definitions .....	5
<b>Considerations before applying for a transfer</b> .....	10
Agreements to assign water.....	8
Licence amendments.....	8
Water allocation transfers.....	9
<b>Considerations prior to submitting a transfer application</b> .....	11
Criteria for determining if a licence is in good standing.....	11
Transferee: have you considered the following factors.....	11
Transferor: have you considered the following factors.....	11
<b>Transfer application and review</b> .....	12
Documentation required to support an application for transfer.....	12
Application review with respect to appurtenance.....	12
Impact of the transfer on other affected parties .....	13
Application review generally.....	13
Public notice of a transfer application.....	14
Public review of a transfer application .....	14
The Director's decision.....	14
Water conservation holdback.....	14
Appeals.....	15
<b>Tables</b>	
Table 1: <i>Water Act</i> Provisions Relating to Transfers, Assignments and Licence Amendments.....	4
Examples of Transfers/Assignments/Amendment.....	15
• Table 2 – Aquifer water sources.....	15
• Table 3 - Surface water sources .....	17
• Common Questions Regarding Transfers.....	20
• Table 4A – Administrative Questions .....	20
• Table 4B – Financial Questions .....	21
• Table 4C – Cancellation Questions.....	21
• Table 4D – Instream or Holdback Questions .....	22
• Table 4E – General Transfer or Assignment Questions.....	22

## Appendices

Appendix A .....	23
• Flow Chart – Transfer Decision Process .....	23
Appendix B .....	23
• Sample Authorizations For Transfer In An Approved Water Management Plan .....	23
Appendix C .....	26
• Public Notice – Example C(1) .....	26
• Public Notice – Example C(2).....	27
Appendix D.....	28
• Public Review Guidelines.....	28
Appendix E .....	29
• <i>Water Act</i> Licence Fee Schedule.....	29
Appendix F.....	30
• Certification Of Licence In Good Standing .....	30
Appendix G.....	32
• Application Form.....	32
Appendix H.....	36
• Licensee Declaration Form .....	36

## Preamble

There are a variety of ways that a person can obtain access to water.

They are:

1. Apply for a licence for an allocation of surface water or water from an aquifer source.
2. Agree to assign part or all of an allocation of water to resolve a water shortage due to priority being called.
3. Amend a licence to reflect a name change or change of purpose when a licensed water allocation remains in its current location.
4. Apply to transfer part or all of an allocation of water under a licence to a new location.

## Guideline Intent

This guideline provides information about transfers and the process for completing a transfer of a licence. The guideline also differentiates between transfers, assignments, and licence amendments. The general intent is to ensure transfers are handled in a consistent manner across the province, and to provide assistance to those who are contemplating a transfer.

Provisions under the *Water Act* (the “Act”) and the *Water (Ministerial) Regulation* (the “Regulation”) allow for the transfer of an allocation of water under a licence (a “transfer”). A transfer can only be considered where water is allocated under a licence and where either an approved water management plan is in place that allows transfers, or by an order of the Lieutenant Governor in Council that authorizes a specific transfer application to be considered.

What is a transfer? The Act’s transfer provisions allow the Director to authorize all or part of an existing licensed allocation to be severed from the land or undertaking specified in a licence and moved it to another parcel of land or undertaking if the application for transfer is approved by the Director. A change in the point of diversion, the point of water use, or both can trigger the transfer provisions of the Act.

The transfer provisions allow for all or part of an existing licence to be transferred for use in a new location permanently or temporarily (a fixed period of time).

Along with the volume of water, rate of diversion, and the timing of the diversion, the priority of the existing allocation is also transferred to a new licence. Changes to the rate of diversion and the timing of the diversion may occur as a result of the transfer.

## Water Act Provisions

The Act provides the necessary legislative tools to consider transfers, assignments, and licence amendments.

Table 1 lists the various provisions in the Act relating to transfers, assignments and amendments:

Table 1: *Water Act* Provisions Relating to Transfers, Assignments and Licence Amendments

Heading	Section
Approved water management plan	11(3)(a)(iv)(B), 11(3)(b)(ii)
Environmental assessment requirements	16(1)
Ministerial orders	17(a)
Agreements to assign water	33
Approvals, licences, transfers, registrations not available	34(1)(c), 34(2)
Amendments	54(1)(a)(ii)(iv), 54(1)(b)(v)(vi)

No transfer between major river basins	47
Appurtenance	58(1)
Transfer application	81
Transfer approved, licence issues	82
Water conservation holdback	83
Notice of applications	108(1)(e), 108(5)
Statements of concern	109
Notice of Director's decision	110(5), 111(6)
Notice of appeal	115(1)(f) or (r), 115(2)(a)(ii)
Regulations	169(2)(s), (u), (ss), (tt) and (uu)

Other legislative tools to be considered include an approved water management plan such as the Approved Water Management Plan for the South Saskatchewan River Basin (Alberta).

- [Approved Water Management Plan for the South Saskatchewan River Basin](#)

An approved water management plan must outline the matters and factors that must be considered by the Director on transfer applications and other applications.

## Definitions

Where definitions do not refer to a specific section of the Act, the definitions were created solely for interpretation in this document; definitions created for this document are marked with an \*.

\*Act means the *Water Act*, RSA 2000 c. W-3, as amended.

Allocation means the volume, rate, and timing of a diversion of water. (Act, s.1(1)(d)).

Amend includes to change, add to or delete from. (Act, s.1 (1)(e)). Note a common type of amendment is “name change amendment” which is an amendment made to the licence as a result of a change in disposition; the amendment records the name of a new holder of an existing licence. (Act, ss. 54(1)(a)(iv) and 80).

Approved Water Management Plan means a water management plan that is approved under Part 2 of the Act, being approved by the Lieutenant Governor in Council or by the Minister, if so authorized by the Lieutenant Governor in Council. (Act, ss. 1(1)(g), 11(1), 11(2)).

\*Appurtenance means belonging to; accessory or incident to; adjunct to; appended or annexed to. Section 58(2)(a) of the Act states a licence is “appurtenant to land **or** undertaking.” A licence is considered appurtenant to both the point of diversion and the point of use. For more detailed discussion see the document titled “Guidelines Regarding Appurtenance”

- [Guidelines Regarding Appurtenance](#)

\*Assignee means the person receiving the assigned allocation.

\*Assignment means a licensee or registrant in good standing has temporarily contracted all or part of his/her water allocation with another licensee or registrant in good standing, who is able to access the same water as a result of the natural flow or natural presence of the water without adversely affecting other water users or the aquatic environment. Refer to section 33 of the Act.

\*Assignor means the person assigning the allocation.

---

\*Crown Reservation section 35(1) of the Act states that “the Minister may by order reserve water that is not currently allocated under a licence or registration or specified in a preliminary certificate (a) in order to determine how the water should be used, or (b) for any other purpose”.

\*Department means the Government of Alberta Department responsible for administering the Act.

Director means an individual designated as a Director for the purpose of all or part of the Act by the Minister. (Act, s. 1(1)(k)).

Disposition means with respect to land or an undertaking, a demise, devise, alienation, transfer or other disposition of the land or undertaking. (Act, s. 1(1)(l)).

\*Land means the land specified in the terms and conditions of a licence or through the authorized plans referred to in the licence.

Licence means a licence issued under the Act and includes a renewed licence and a deemed licence under the Act. (Act, s. 1(1)(dd)).

\*Licensee means a person who holds a licence.

\*Licence in Good Standing is a phrase used in the Act, but it is not defined. The Director must determine whether the allocation of water to be transferred is held “under a licence in good standing” (Act, s. 81(7)(c)). The licence has to be in good standing at the time the Director considers the application (that is, it already exists in good standing or the licence holder brings the licence into good standing prior to the time when the Director considers the application to transfer.) Examples of a licence not in “good standing” are a licence that is:

- in breach of the Act
- subject to an investigation under the Act
- subject to an enforcement tool or prosecution
- in breach of terms and conditions of the licence

Please refer to checklist on page 33.

\*Permanent Transfer means part or all of the allocation of water is transferred and does not revert back to the original licensee (the transferor).

\*Point of Diversion or POD means the actual physical location where water is diverted from the source of supply.

\*Point of Use or POU means the actual physical location(s) where water is used for the purpose that the authorization is granted.

\*Purpose means the authorized use of the water. Section 11 of Regulation lists licence purposes.

Registrant means a person who holds a registration. (Act, s. 1(1)(yy)).

Registration means a registered effected under the Act. (Act, s. 1(1)(zz)).

\*Regulation means the Water (Ministerial) Regulation, Alta Reg 205/1998, as amended.

\*Temporary Transfer means part or all of the allocation of water is transferred for a specified period of time. The allocation of water will be returned to the original licensee after the agreed period of time has lapsed.

\*Transferee means the person receiving a transfer of an allocation of water.

\*Transferor means the person who holds a licence (the licensee) and is prepared to transfer part or all of an allocation of water from the licence to another person.

Undertaking means a project that is established, proposed to be established, required to be established, or carried on pursuant to this Act by any person that is related to

- (i) an activity, diversion of water or operation of a works, and
- (ii) anything that is defined as an undertaking in the regulation for the purpose of this Act.  
(Act, s.1(1)(ddd))

\*Water Allocation Transfer or Transfer occurs when the holder of an existing water licence agrees to sell all or part of the amount they are allocated to another person or organization or the holder decides to change the point of diversion or point of use of his own licence. The Director must approve a transfer. When this occurs, the allocation is separated from the original land, and a new licence, with the seniority of the transferred allocation, is issued and attached to the new location. Under the Act, the Director may place conditions on the new licence. Water allocation transfers may occur only if authorized under an approved water management plan, or by the Lieutenant Governor in Council. See Sections 81, 82 and 83 of the Act.

\*Water Conservation Holdback or Holdback under section 83 of the Act if the Director is of the opinion that withholding water is in the public interest to protect the aquatic environment or to implement a water conservation objective, and the ability to withhold water has been authorized in an applicable approved water management plan or order of the Lieutenant Governor in Council, the Director may withhold up to 10% of an allocation of water under a licence that is being transferred. The withholding of occurs at the time the new licence created for the

transferred allocation is issued.

Water Conservation Objective or WCO means the amount and quality of water established by the Director under Part 2 of the Act, based on information available to the Director, to be necessary for the:

- (i) protection of a natural water body or its aquatic environment, or any part of them,
- (ii) protection of tourism, recreational, transportation or waste assimilation uses of water, or
- (iii) management of fish or wildlife

and may include water necessary for the rate of flow or water level requirements. (Act, s. 1(1)(hhh)).

“Works” means any structure, device or contrivance made by persons, or part of it, including a dam and canal, and

- (i) land associated with it, and
- (ii) mitigative measures associated with it,

and includes anything that is defined as a works in the regulations for the purposes of this Act.

(Act, s.1(1)(mmm))

## Considerations before Applying for a Transfer

Is a transfer the right tool for you? There may be other options that may apply to your situation.

## Agreements to Assign Water

Assignments are a mechanism for a junior priority licence/registrant to manage the risk of water shortage. This is sometimes called a water sharing agreement. Assignments may be an applicable tool in some situations to provide access to water.

To provide flexibility, section 33 of the Act allows licensees and registrants to temporarily allow all or part of their licensed or registered allocation to be used by another licensee or registrant. Assignments of water differ from transfers because assignments do not result in a new licence being issued, and assignments must **only** occur between existing licensees or registrants.

Assignments can be used in times of water shortages where there is a priority call or the administration of priority (Act, ss. 30 and 32). Assignments cannot be used if a licensee wants to obtain an increase in volume of water or wants to change conditions of the licence, such as a minimum flow condition.

Assignments have the following requirements:

- a) written agreement by licensees or registrants participating in temporary assignment (if required, the Director may request a copy of written agreement);
- b) licences and registrations that are subject of the agreement are in good standing;
- c) no rights of household users, or of a licensee or traditional agriculture user are adversely affected;
- d) the person receiving the water under the agreement (the assignor) is able to access the water as a result of natural flow or natural presence of water; and
- e) there are no adverse effects on any water body or the aquatic environment.

The diversion of water under an assignment is governed by the terms of the assignee's licence this includes the minimum flow condition, volume of water, rate of diversion, timing of diversion, etc. The only aspect of the assignee's licence that does **not** apply is the priority number.

Although there are no application requirements for an assignment, the Director may request information and may stop the assignment if it is not in accordance with section 33 of the Act.

The assignor cannot divert the allocation of water that has been temporarily assigned.

## Licence Amendments

Section 54 of the Act provides the Director with the authority to amend an existing licence. Amendments may be an applicable tool in some situations to provide access to water.

Amendments may include a change in the point of use, a change in point of diversion, a change in purpose, or a change in the name of the licence holder (See Tables 2 and 3 for further information).

Using the amendment provisions to change the point of diversion or point of use has very limited applications. These changes are limited to the following:

- Changing the point of use or adding another point of use if the use is located on the same land specified in the licence or plans attached to the licence within the existing appurtenance.
- Changing the point of diversion or adding another point of diversion if the diversion of water at the new point of diversion is from the same source of water and the new point of diversion of water is located on the same land that is specified in the licence or plans attached to the licence within the existing appurtenance.

A change in the purpose of a licence is an amendment if the new use does not change the appurtenance of the licence (i.e. where the water is diverted from and where it is used). The Department has interim Water Licence Change of Purpose Administrative Licencing Criteria (March 2014) which provides further information.

- [Water Licence Change of Purpose Administrative Licencing Criteria](#)

A change to the name of a licensee is also an amendment to a licence and is not subject to the transfer provisions of the Act. It is processed through a notice of disposition amendment (Act, ss. 54(1)(a)(iv) and 80).

## Water Allocation Transfers

Transfers may be an applicable tool in some situations to provide access to water. Applications for transfer can **only** be considered by the Director if the ability to transfer an allocation of water has been authorized in an applicable approved water management plan or by an order of Lieutenant Governor in Council (Act, s. 81(7)).

- [The Approved Water Management Plan for the South Saskatchewan River Basin \(Alberta\):](#)
- authorizes transfers of water allocations in the Bow, Oldman and South Saskatchewan River Sub-basins, which applies to all of the named, rivers, their tributaries and all natural surface water with hydrological connected to the named rivers and tributaries. Groundwater that readily flows naturally under the ground to these surface water bodies is also considered surface water.
- outlines the matters and factors the Director must consider in making decisions on applications for a transfer of allocation. (See Appendix B).

In areas of the province where there is no approved water management plan that authorizes transfers, a request for a transfer first requires a request to Cabinet to obtain an order of the Lieutenant Governor in Council; this order is required before the Director can make any decision on a transfer. Contact the Department's regional office for further information on this process.

An allocation of water with respect to the following may not be transferred (Act, s. 82(4)):

- a) a licence for a temporary diversion of water;
- b) a licence issued as a result of a previous transfer if the transferred allocation is to revert back to the original licence after a specified period of time;
- c) a right to divert water for household purposes;
- d) a right to divert water pursuant to a registration;
- e) a right to divert water pursuant to an approval;
- f) an anticipated right to divert water pursuant to a preliminary certificate.

## Considerations Prior to Submitting a Transfer Application

There are a number of factors that should be considered by both the transferor and transferee before submitting an application for transfer.

### Criteria for Determining if a Licence is in Good Standing

A licence must be determined to be “in good standing” before an application for transfer can be considered (Act, s. 81(7)(c)). Applicants should discuss the standing of any licence they would like to transfer with the owner (licensee) to determine what may be necessary to bring a licence into good standing. Further specifics on the factors considered in determining in good standing can be found in Appendix F.

### Transferee: Have you considered the following factors?

- a) Do the following match your intended use of the water at the new location?
  - i. The volume of water, rate of diversion, and priority number of licence
  - ii. The purpose of the licence as it relates to timing of the diversion
  - iii. The terms and conditions of the proposed licence such as flow restrictions (e.g. minimum flow conditions), timing restrictions (seasonal or all year diversion), breakdown of allocation (consumptive use, losses, and return flow), and others.
  - iv. Does the licence contain a condition that specifies when diversion can take place?
  - v. Amount of allocation required should include the possibility of a holdback up to 10% of the transferred allocation.
  - vi. Is the rate of diversion of the transferred licence sufficient at the new point of diversion?
- b) Is the licence in good standing (see Appendix F)?
- c) Is this a temporary transfer, if so what date does it revert to the original status?

### Transferor: Have you considered the following factors?

- a) Is the licence you are considering for transfer surface water or sub-surface water or groundwater with a direct and immediate hydrological connection to surface water?
- b) Is the licence in good standing (see Appendix F) and has information required under the terms and conditions of the licence, such as water use returns been submitted to the Department in prior years?
- c) Will the licence be amended or cancelled as a result of the transfer? If amended, what information will I need to provide? (Note: the licence will be cancelled if it's a permanent transfer for the entire allocation).
- d) Is this a temporary transfer, if so what date does it revert to the original status?
- e) Amount of allocation required should include the possibility of a holdback up to 10% of the transferred allocation.
- f) Do you hold the licence and own the appurtenance to which the licence is attached? If not, do you have written permission to transfer the licence?

## Transfer application and review

This section describes how the Department processes an application for transfer of a water allocation.

### Documentation required to support an application for transfer:

- Application under the Act for Transfer of an Allocation of Water under a Licence (See Form TWA1 in Appendix G.)
- A recent certificate of title for all parcels of land involved in the transfer, including titles for lands under the transferor's licence, and lands associated with the transferee's proposed project.
- If any new licence issued may be considered as appurtenant to lands or undertakings, written consent from the landowner or the owner of the undertakings if the transferee is not the owner of the new lands is required.
- If the existing licence is appurtenant to lands or undertakings, written consent from the landowner or owner of the undertakings if the transferor is not the owner of the lands or undertakings where the existing licence is located.
- A copy of the licence from which the transfer is to be made.
- A plan showing the layout of the new works, including point of diversion and point of use.
- A detailed description showing proof of reasonable and present need for the allocation to accompany a description purpose of the proposed transferred water.
- If there is instream work to construct, an application for approval under the Act is required with appropriate plans.
- If irrigation is involved at the new point of use, an agricultural feasibility report is required
  - [Guideline for Preparing Agricultural Feasibility Reports for Irrigation Projects](#)
- The Department shall set a licence fee which must be paid before any licence is issued as a result of the transfer. (See Appendix E)
- Information on the suitability of the allocation (volume, rate and timing) for the transferee's project and any necessary information on amendments to rate and timing needed
- If project is to be developed in phases, provide a brief description of the phases and the corresponding timeline for development.
- [Completion of a Water Shortage Response Plan – Apr 23, 2014](#)
- Any other information that may be required by the Director.

Please refer to "Guidelines for Licensing" on types of plans.

- [Guidelines for Licensing – Water Diversion Projects](#)

Note: Any document submitted to the Department is a public document under Section 15 of the Regulation.

### Application review with respect to appurtenance

The application is first reviewed to determine if the appurtenance has been appropriately stated. If not, the Department will refer to the *Guideline Regarding Appurtenance* and ensure the information is added to the file by a memo signed by the Director.

### Impact of the Transfer on Other Affected Parties

The transfer application must be assessed by the Director to determine if it does not impair the exercise of rights of any household user, traditional agriculture user or other licensee; other than a household user, traditional agriculture user or other licensee who has agreed in writing that the transfer of the allocation may take place. Additionally, the

transfer application is assessed to determine if it has no significant adverse effect on the aquatic environment (Act, s. 82(3)).

Factors about a transfer that may impact other affected parties:

- a) Are the sources of water the same or different?
- b) Impact on the watercourse or aquifer between the existing and proposed POD. Will there be more or less flow? Will there be a change in water quality?
- c) Drainage area change above the POD could change the water supply available (for it is an upstream transfer). If there is a major tributary contributing to the mainstem then there will likely be a reduction in the eligible volume to be transferred.
- d) Historical water use.
- e) Licence priority may affect licensees that, due to a change in location, were not previously impacted by that licence in times of water shortages. This may also impact the location at which priority may be administered.

## Application Review Generally

Where there is an approved water management plan, the review must include the matters and factors listed in the approved water management plan. The matter and factors in the Approved Water Management Plan for the South Saskatchewan River Basin (Alberta) are found in Appendix B.

Section 82(5)(b) of the Act also states that the review may include the following considerations:

- Any existing, potential or cumulative:
  - i. effects on the aquatic environment and any applicable water conservation objective;
  - ii. hydraulic, hydrological and hydrogeological effects (including connectivity for aquifer sources)
  - iii. effects on household users, traditional agriculture users and other licensees;
- Effects on public safety;
- With respect to irrigation, the suitability of the land to which the allocation of water is to be transferred for irrigated agriculture;
- The allocation of water that the licensee has historically diverted under the licence; and
- Any other matters that the Director considers relevant.

Also note that the application:

- Will require a public notice (Act, s. 108(1)(e));
- Will be subject to a public review as appropriate for the scale of potential issues, which could include public information sessions (Act, s. 81(6)), and
- May be referred to other agencies who may be affected by the transfer for comment;
- May require advice from Alberta's Aboriginal Consultation Office.

Other factors the Department may consider:

- If different than the licensee, has the landowner where the licence is currently appurtenant given consent for the transfer? (Act, s. 80(4) or (5))
- If the licensee is not the transferor, has the current licensee given consent for the transfer? (Act, s. 80(3)).
- Is there sufficient land or undertaking for the volume, rate and timing of the allocation?
- The suitability of the Water Shortage Response Plan for the level of public risk undertaken
- Any other information requested by the Director.

## **Public Notice of a Transfer Application**

Notice of the application must be provided in accordance with section 108(1)(e) of the Act and section 13 of the Regulation. 30 days is the minimum time period for a person directly affected by the proposed transfer to respond to the public notice (Act s, 109(2)(b)). The Department provides the copy of the public notice to the applicant for publication. Two samples of public notices are provided in Appendix C. The notice includes information regarding the 10% holdback consideration.

## **Public Review of a Transfer Application**

When the Director considers the application for transfer to be complete, section 81(6) of the Act requires the Director to conduct a public review with respect to the transfer application. The Director determines the form and manner of the review taking into consideration the scope of impacts and issues within the proposed transfer. A sample of the public review guidelines is provided in Appendix D.

Note: to coordinate the public notice and review, especially for small projects, the review is often required to take place during the 30 day notice.

## **The Director's Decision**

The Director may decide to approve the transfer and issue a new licence or refuse to issue a licence as a result of the transfer application (Act, s. 82). At the same time, the Director may also make the decision on any application for an approval under the Act needed to authorize any new construction in a watercourse to facilitate the transfer.

A transfer may be approved if it does not impair the exercise of rights of any household user, traditional agriculture user or other licensee; other than a household user, traditional agriculture user or other licensee who has agreed in writing that the transfer of the allocation may take place. Additionally, a transfer may be approved if it has no significant adverse effect on the aquatic environment (Act, s. 82(3)).

A new licence is issued to authorize the transfer. The new licence will retain the priority number assigned to the existing licence (Act, s. 82(7)). The conditions of the existing licence may only be modified if it is necessary to mitigate the impact of the transfer on others (Act, s. 82(6)). Licences may include additional conditions requiring the licensee to submit water monitoring data, quantities of water diverted, investigation of users impacted by the licensee's diversion and monitoring of nearby water sources.

The new licence will specify the new appurtenance and will be issued with an expiry date (Regulation, s. 12).

The original licence will be amended (with a reduced allocation) if part of an allocation is transferred or if the part of the allocation that is transferred is a temporary transfer. The original licence will be cancelled if all of the allocation is permanently transferred.

## **Water Conservation Holdback**

Section 83 of the Act states the Director may withhold up to 10% of an allocation of water being transferred if the Director is of the opinion withholding water is in the public interest to protect the aquatic environment or to implement a water conservation objective. This is called a "holdback" or a "water conservation holdback".

The ability to holdback water requires authorization in an approved water management plan or by an order of the Lieutenant Governor in Council. The holdback applies to permanent and temporary transfers.

Any water held back may be licensed to the Government of Alberta for the following:

- to implement a water conservation objective (note: a licence issued for a water conservation objective will bear the same priority number as the original licence),

- be added to an existing Crown reservation, or
- left in the water body as unallocated water (Act, s. 83(3)(a), (b) or (c)).

An allocation of water under a holdback may also remain in the natural water body without the issuance of a licence.

In the Approved Water Management Plan for the South Saskatchewan River Basin (Alberta) it is recommended that the Director holdback 10% of an allocation of water under a licence that is being transferred unless there is a compelling reason to withhold less. The 10% Holdback Interim Criteria Approval Document (May 2011) recommends two compelling situations when the holdback may not be applied or may be reduced (less 10%):

- if the water conservation objective is currently being met; or
- if the transfer is for the purpose of facilitating a regional treated water system under *Water for Life* action no.1.5

Holdback water as a result of a temporary transfer does not revert back to the original licensee at the expiry of the temporary transfer.

Examples of how a holdback may operate are:

Example 1: The original licence has an allocation volume of 100,000 cubic metres (m<sup>3</sup>) and a diversion rate of 1 cubic metre per minute (m<sup>3</sup>/min). The entire allocation is to be transferred. If the Director decides that a holdback of 10% will be done, then the transfer licence (the new licence) will have an allocation volume of 90,000m<sup>3</sup> and a diversion rate of 0.9m<sup>3</sup>/min. The Government of Alberta will be issued a water conservation objective (WCO) licence for 10,000m<sup>3</sup> for the same source of water supply, the same priority, and a proportional flow rate as the original licence.

Example 2: The original licence has an allocation volume of 100,000m<sup>3</sup>. 50,000 m<sup>3</sup> is to be permanently transferred. If the Director decides a holdback of 10% is required to support the WCO, then the original licence will be reduced to 50,000m<sup>3</sup>, the transfer licence (the new licence) will have an allocation volume of 45,000m<sup>3</sup> and the holdback will be 5,000m<sup>3</sup>. The 10% holdback is applied to the actual amount being transferred (e.g. 50,000m<sup>3</sup>) and not the entire allocation volume (e.g. 100,000m<sup>3</sup>). The diversion rate will also be prorated.

Example 3: The original licence has an allocation volume of 100,000m<sup>3</sup>. 50,000m<sup>3</sup> is to be transferred on a temporary basis. If the Director decides a holdback of 10% is required to support the WCO, then the original licence will be reduced to 50,000m<sup>3</sup>, the temporary transfer licence will have an allocation volume of 45,000m<sup>3</sup> and the holdback will be 5,000m<sup>3</sup>. When the temporarily transferred allocation is no longer required, the 45,000m<sup>3</sup> will be returned to the original licensee and the total allocation volume on the original licence will be 95,000m<sup>3</sup>. The diversion rate will also be prorated.

## Appeals

Director's decisions made on transfer applications may be appealed to the Environmental Appeals Board. Directly affected persons who submitted a statement of concern will be notified of the Director's decision (Act, s. 111(6)) and have 30 days to appeal the Director's decision (Act, s.115(10(r))).

## Examples of Transfers/Assignments/Amendments

Tables 2 and 3 indicate the type of transfer, assignments or licence amendments that can be considered for various situations. Please note that each case is considered on its own unique facts and a small difference in circumstances can lead to a big difference in decision making.

Type of Transfer/ Assignment/ Amendment	Appurtenance	Is Change Permitted?	Licensing Requirements	
1. Construction of a replacement groundwater well.(new POD)	New well must be drilled in same aquifer and within the lands stated on the licence or plans.	Yes (by amendment)	Licence and plan are amended.	<p>No impact to other groundwater users or users between the wells</p> <p>Original well must be properly sealed if abandoned. (See Regulation, s. 66 – Reclamation).</p> <ul style="list-style-type: none"> <li>- well must be constructed to licensable standards (See Regulation, s. 47g– Construction Requirements)</li> <li>- no change in rate, volume of allocation or timing (if applicable) from replacement well</li> <li>- drawdown cone of replacement well must be similar to that of original well</li> </ul>
2. Move water allocation from a licensed groundwater well to a new well within the same aquifer. (new POD – same source)	If outside the lands stated on the licence or plans.	Yes (by transfer)	New licence issued and original licence is cancelled if total allocation is transferred.	<p>Approved Water Management Plan, or Order in Council.</p> <p>Existing well must be properly sealed if abandoned(See Regulation, s.66 – Reclamation)</p> <ul style="list-style-type: none"> <li>- well must be constructed to licensable standards (See Regulation, s. 47g– Construction Requirements)</li> <li>- evidence to support belief new well is in the same aquifer (i.e. borehole logs, water chemistry etc.).</li> <li>- withdrawal from the new well does not result in negative impacts on the aquifer or preexisting groundwater users.</li> </ul>
3. Construction of supplementary	New well must be in same aquifer as	Yes (by amendment)	Licence and plan are amended to	Combined water diversion from supplemental and existing well shall not exceed the allocation on the existing

Type of Transfer/ Assignment/ Amendment	Appurtenance	Is Change Permitted?	Licensing Requirements	
groundwater well(s). (additional POD)	existing well and on the same land specified in the licence or plans.		indicate another well.	licence - licence on original well would have to be reduced accordingly.
4. Move water allocation from the licensed groundwater well to a new well in a different aquifer. (new POD – new source)		No	N/A	Proponent needs to apply for a licence  - proof provided that the new well (as was original well) does not have a groundwater – surface water connection between the well and a surface water body (i.e. borehole logs, pump tests, water chemistry etc.)
5. Change water allocation from aquifer source (well) to surface water when there is a hydraulic connection. (new POD – same source)	Change can only take place by amendment within lands stated on the licence or plans.  If outside the lands stated on the licence or plans, then apply for a transfer.	Yes (by amendment)  Yes (by transfer)	Licence and plan are amended.  New licence is issued and original licence is cancelled if total allocation is transferred.	<b>For Amendment:</b> - Existing well must be properly sealed if abandoned(See Regulation, s. 66 – Reclamation)  - well must be constructed to licensable standards (See Regulation. s. 47g– Construction Requirements)  - evidence to support belief well is connected to a surface water body aquifer (i.e. borehole logs, water chemistry, pump test data etc.)  <b>For Transfer:</b> - Approved Water Management Plan, or Order in Council  Existing well must be properly sealed if abandoned(See Regulation, s. 66 – Reclamation)  - well must be constructed to licensable standards (See Regulation, s. 47g– Construction Requirements)  - evidence to support belief well is connected to a surface water body aquifer (i.e. borehole logs, water chemistry, pump test data etc.)

Type of Transfer/ Assignment/ Amendment	Appurtenance	Is Change Permitted?	Licensing Requirements	
6. Change water allocation from aquifer source(well) to surface water when there is no hydraulic connection. (new POD – new source)	No	N/A	N/A	Proponent needs to apply for a new licence if not in a basin closed to surface water applications.  - proof provided that the new well does not have a groundwater – surface water connection between the well and a surface water body (i.e. borehole logs, pump tests, water chemistry etc.)

Type of Transfer/ Assignment/ Amendment	Appurtenance	Is Change permitted?	Licensing Requirements	
1. Change in point of diversion or adding another point of diversion. (new POD)	Within the lands stated on the licence or plans.	Yes (by amendment)	Licence and plan are amended.	Change must be on same water body.
	If outside the lands stated on the licence or plans.	Yes (by transfer)	New licence is issued, and original licence is cancelled.	Must remain within the same major river basin boundary unless an Order is obtained from the Lieutenant Governor in Council.  Approved Water Management Plan, or Order in Council.
2. Change in point of use, but no change in diversion point. (Same POD – same source)	Within the lands stated on the licence or plans.	Yes (by amendment)	Licence and plan are amended.	Agricultural Feasibility Report and plan may be required for irrigation projects.
	If outside the lands stated on the licence or plans.	Yes (by transfer)	New licence is issued, and original licence is cancelled.	Agricultural Feasibility Report and plan may be required for irrigation projects.  Approved Water Management Plan, or Order in Council.
3. Change in point of diversion and point of use (POD and	Within the lands stated on the licence or plans	Yes (by amendment)	Licence and plan are amended	Agricultural Feasibility Report and plan may be required for change in point of use of irrigation projects. The change must also be on the same water body.

Type of Transfer/ Assignment/ Amendment	Appurtenance	Is Change permitted?	Licensing Requirements	
POU).	If outside the lands stated on the licence or plans.	Yes (by transfer)	New licence is issued, and original licence is cancelled	Agricultural Feasibility Report and plan may be required for irrigation projects  Approved Water Management Plan, or Order in Council.
4. Change in purpose of use (POU).	Within the lands stated on the licence or plans  If outside the lands stated on the licence or plans.	Yes (by amendment)  Yes (by transfer)	Licence and plan are amended if necessary  New licence is issued stating new purpose.	Only if the appurtenance remains the same and the Administrative Licensing Criteria is met.  Approved Water Management Plan, or Order in Council if the appurtenance of the licence does change.
5. Assigning an allocation of water (water sharing agreement).	No change in the appurtenance of the licence to be assigned or the licence receiving the assignment.	Yes (by assignment).	No change to licence conditions.  Does not result in a new licence being issued.  Receiving licensee or registrant operates under his/her licence conditions.	Written agreement between licensees or registrants.  The assignment is subject to section 33 of the Act.  No other water users or the aquatic environment may be adversely affected by the assignment.
6. Moving diversion point to another surface water body where there is no hydraulic connection with the licensed water source and a change in major river basin would		No.  Act of the Legislature required. (s. 47)		Proponent must apply for new licence if the basin is not closed to new applications.

occur.				
7. Moving diversion source from surface water to aquifer water (well) naturally flowing to a surface water source.	Change must take place within the lands stated on the licence or plans.  If outside the lands stated on the licence or plans.	Yes (by amendment)  Yes (by transfer)	Licence and plan are amended if necessary  New licence is issued and original licence is cancelled.	Well must not be drilled to a depth exceeding the water-bearing strata connected to the surface water body.  Approved Water Management Plan, or Order in Council. Must remain within the same major river basin boundary.
8. Moving water allocation from surface water to aquifer where there is no hydraulic connection		No	N/A	Proponent needs to obtain a licence and surface water licence would be cancelled.  Any transfer where there is no hydraulic connection would impair the exercise of rights of existing household and traditional agriculture users or licensees.

## Common Questions Regarding Transfers

Table 4A: Administrative Questions	
Question	Answer
1. Can a transfer include a change in purpose?	Yes, but the Director must give careful consideration where timing of withdrawal or mode of operation as stipulated in the original licence is proposed to change. If the new purpose would take water at a time that is different from the original licence, any impacts would have to be mitigated.
2. Can a licensee divide a water allocation and transfer parts of the allocation to more than one applicant?	Yes, more than one licence may be issued and each licence will retain the existing priority number. The sum of the water allocation will not exceed the original volume.
3. Can a temporary diversion licence (“TDL”) be issued if the transfer is of a temporary nature?	No, a TDL is issued for a diversion on a temporary basis for a purpose that normally does not require a licence. The TDL does not have a priority number and is not transferable.

4. Can an allocation of water be transferred where the transferor/transferee does not own the land or undertaking to which the licence/new licence is appurtenant to?	Yes, but the landowner or owner of the undertaking must agree to the transfer - the transferor/transferee must submit, with a transfer application, written consent from the landowner or owner of the undertaking.
5. Can the Director include new conditions in the transfer (new) licence?	Yes, the Director has discretion to include new conditions in the new licence.
6. What are the Freedom of Information and Privacy Act (“FOIP”) issues surrounding licences and transfers?	The application submission and any licence issued are public documents, so the FOIP implications in the matter of transfers are the same as with any other file.
7. If licensees cannot find their licences, can they obtain a copy from the Department?	Yes, the Department will provide a copy or direct them to the: <ul style="list-style-type: none"> <li>• <a href="#">Authorization Viewer</a></li> </ul>
8. Can an allocation of water be transferred more than once?	Yes, if a new licence is issued and is not for a temporary transfer, it could be subject to another transfer application and holdback provisions. An allocation that has reverted back to a transferor could also be subject to another transfer application and holdback provisions.
9. Can a licence be transferred to a person who has not yet constructed any works?	Yes. Section 82 of the Water Act states that a licence must be issued as a result of a transfer of water allocation. Also see Table 4C.

**Table 4B: Financial Questions**

Questions	Answers
1. Can a cash payment or gift be made instead of implementing the water conservation holdback from a transfer?	No, the holdback provision is required to protect the aquatic environment or implement a water conservation objective.
2. Does the Department have any control on the price of the transfer agreed to by the transferor and the transferee?	No, any and all financial arrangements or any other reasons for transferring are strictly between the two parties.
3. Are there application or licence fees for transferring an allocation of water?	A one-time licence fee may apply when the new licence is issued. (See Appendix E for licence fee schedule). There is no application fee to process the transfer itself.

**Table 4C: Cancellation Questions**

Question	Answer
1. What happens when a transferee, who entered into a permanent or temporary transfer agreement, does not use any of the water allocation?	If there has been no diversion of any of the water allocated for a period of 3 years and there is no reasonable prospect the licensee will divert all or part of the water, the Director may consider cancelling the licence for non-use of water. See Section 55(1)(f) of the Act for further information
2. Can the lack of use or non-use of water be considered during the review of an application for transfer?	Yes the Director may consider historical water use. In the South Saskatchewan River Basin the Director must consider the historical water use as part of the matters and factors in the <i>Approved Water Management Plan for the South Saskatchewan River Basin (Alberta)</i> .

**Table 4D: Instream or Holdback Questions**

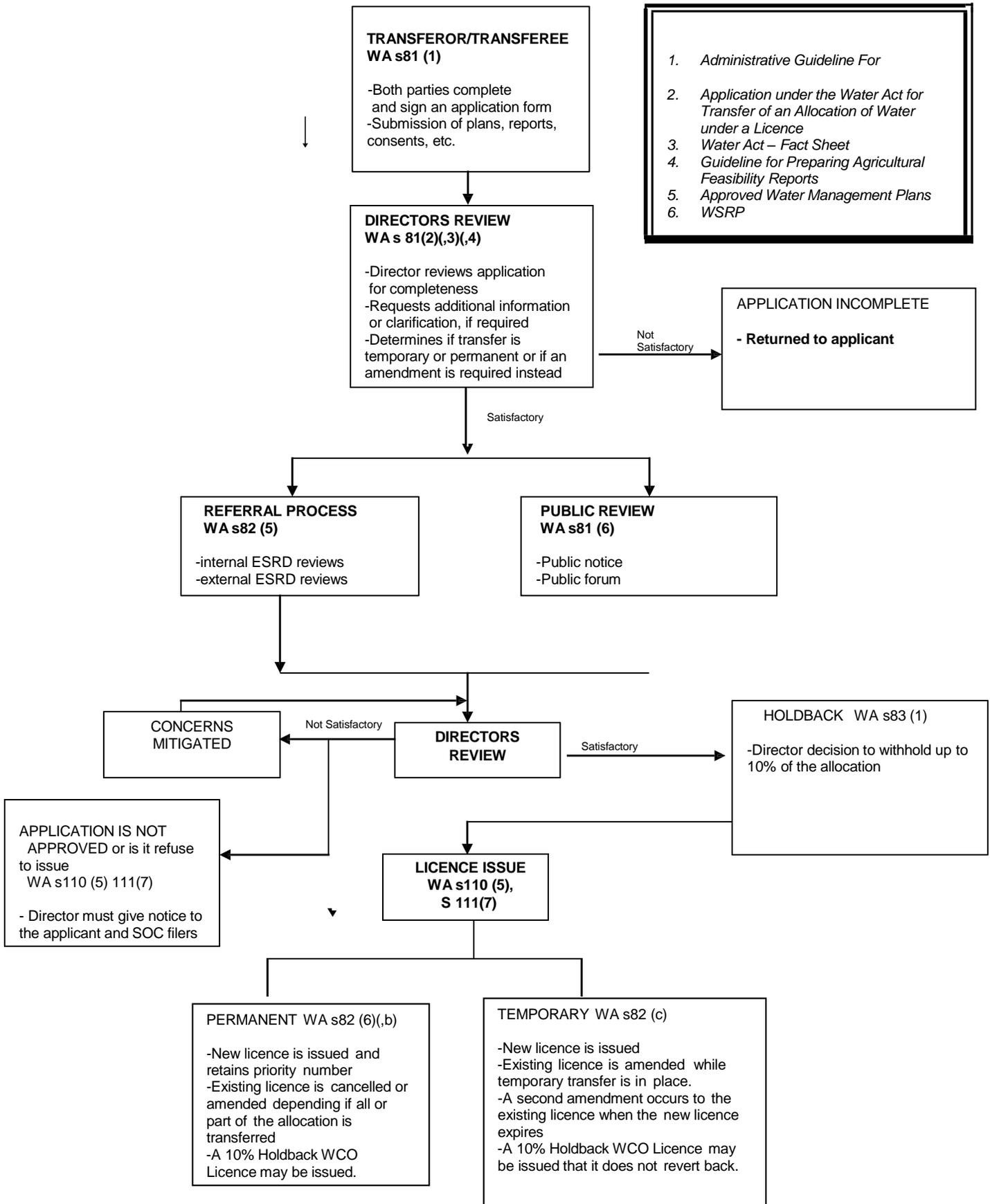
Questions	Answers
1. What happens to the water that is held back?	Holdback water could remain in the water source, could be protected by a reservation or could be a licence, with the same priority, issued to the Government of Alberta for implementing a water conservation objective.
2. What are the factors the Director considers in determining whether a holdback is taken?	Whether the Director is of the opinion that withholding water is in the public interest to protect the aquatic environment or to implement a water conservation objective (WCO). The Director may also consider whether WCO is being met.
3. Can an entire allocation be transferred to instream uses on a permanent or temporary basis?	Yes. It can be transferred to the Government of Alberta to hold in a WCO licence.
4. Can others apply for a Water Conservation Objective licence.	No, only the Government of Alberta can hold this type of licence under section 51(2)(c) of the Act.
5. Can holdback water be transferred to an environmental agency for instream use?	No, only the Government of Alberta can hold holdback water in a licence from a transfer.

**Table 4E: General Transfer or Assignment Questions**

Questions	Answers
1. Can existing licensees (e.g. municipality, irrigation district, industry or individual) obtain transfer allocations of water to meet their increased needs?	Yes, as long as need for the water can be shown and the applicable transfer provisions under the Act are met.
2. Can an irrigation district transfer part of its allocation outside of the district?	Yes, the irrigation district's board is at liberty to transfer part or all of their water allocation out of the district in accordance with the <i>Irrigation District Act</i> . A referendum under the <i>Irrigation Districts Act</i> is required.
3. Can a licensee assign part of their water allocation to someone who does not have a licence or registration?	No, a licensee or a registrant can only assign water to another licensee or registrant.
4. How much allocation can be transferred if the historical water use has been much less than the total allocation?	The Director may consider transferring only an amount equal to the historical water use.
5. Can the Government of Alberta apply for a transfer of allocation of water for water conservation objective purposes?	Yes, the Government of Alberta may apply for a transfer and acquire a water allocation and use the water for a water conservation objective licence.
6. What happens to the works at the original site of the licence?	If the transfer is for the full amount and permanent, decommissioning of works may be required and may be subject to an application for an approval under the Act if activity in a watercourse is required to remove the works.

# Appendix A

## Transferring Water Allocations Flow Chart - Transfer Decision Process



1. *Administrative Guideline For*
2. *Application under the Water Act for Transfer of an Allocation of Water under a Licence*
3. *Water Act – Fact Sheet*
4. *Guideline for Preparing Agricultural Feasibility Reports*
5. *Approved Water Management Plans*
6. *WSRP*

## Appendix B

(Excerpt from the Approved Water Management for the South Saskatchewan River Basin (Alberta) (Pages 11-14)

### **2.7 Use of Water Allocation Transfers, Water Conservation Holdbacks and Factors that must be Considered When Making Decisions**

Some water management tools provided by the *Water Act* require authorization by an Approved Water Management Plan. The SSRB Approved Water Management Plan, Phase One (2002) authorized water allocation transfers and water conservation holdbacks. This Approved SSRB Water Management Plan continues these authorizations, as detailed below.

#### **2.7.1 Water Allocation Transfers**

The Director (as designated under the *Water Act*) is hereby authorized to consider applications to transfer water allocations under licences in the SSRB in Alberta, subject to sections 81, 82 and 83 of the *Water Act*.

In order for a transfer to proceed, an application for the transfer must be submitted to [the Department]. The designated Director decides whether the transfer will be allowed. If a transfer is allowed to proceed, then a new licence is issued for the transferred allocation. The Director may attach conditions to the new licence, however, the priority of the transferred water is maintained.

Under sections 11(3) (a) and 82(5) of the *Water Act*, an Approved Water Management Plan will identify the Matters and Factors that must be considered by the designated Director in making a decision on an application for a water allocation transfer. The Matters and Factors that must be considered in the SSRB are listed in Table 1.

Only allocations of “licences in good standing” may be transferred (see definition in Glossary).

Under the *Water Act* (81(6)), proposed transfers must undergo public review. The applicant for a transfer must also provide public notice of the application. Directly affected parties may submit statements of concern.

[The Department] will maintain a public list of water allocation licences to assist interested parties in arranging transfers. This list will include the volume and priority for each licence.

#### Rationale

In highly-allocated basins, water allocation transfers are a means by which a reliable (high priority) water allocation could be obtained, provided a party willing to transfer all or part of their allocation could be found. This would enable a new enterprise to locate in these basins, to the benefit of the economy. The ability to transfer part of an allocation for financial benefit provides an incentive for existing licence holders to increase water use efficiency.

#### **2.7.2 Water Conservation Holdbacks**

The Director is hereby authorized to withhold up to 10 per cent of an allocation of water under a licence that is being transferred, if the Director is of the opinion that withholding water is in the public interest to protect the aquatic environment or to implement a Water Conservation Objective.

Water conservation holdbacks permit up to 10% of the volume of a transferred allocation to remain in the river for the benefit of the aquatic environment or to implement a WCO. The withheld water may be also reserved (section 35 of *Water Act*) or added to an existing reservation.

Section 83(1) of the *Water Act* states:

*If the Director is of the opinion that withholding water is in the public interest to protect the aquatic environment or to implement a Water Conservation Objective, and the ability to withhold water has been authorized in an*

applicable approved water management plan or by order of the Lieutenant Governor in Council, the Director may withhold up to 10% of an allocation of water under a licence that is being transferred.

It is recommended that the Director withhold 10%, unless there is a compelling reason to withhold less.

It is recommended that withheld water remain in the river through a WCO licence or become part of the Crown Reservation.

Rationale

Water conservation holdbacks could help increase the flows of highly-allocated rivers by a small amount, or at least help offset increases in water use by the new licence holder.

**Table 1. Matters and Factors that must be considered in making decisions on applications for a transfer of an allocation of water under a licence in the SSRB**

Matters and Factor	Guidelines
Existing, potential and cumulative effects on the aquatic environment	<ul style="list-style-type: none"> <li>No significant adverse effect on the aquatic environment</li> </ul>
Existing, potential and cumulative effects on any applicable instream objective and/or WCO	<ul style="list-style-type: none"> <li>No significant adverse effect on existing instream objectives and/or Water Conservation Objectives.</li> </ul>
Efficiency of use	<ul style="list-style-type: none"> <li>Industry standards and best practices</li> </ul>
Net Diversion (see Definition)	<ul style="list-style-type: none"> <li>Quality and timing of return flow should be benign or beneficial for environment.</li> <li>Only net use portion of the allocation is transferable, unless new user has a net consumption operation.</li> </ul>
Existing, potential and cumulative hydraulic, hydrological and hydrogeological effects	
Existing, potential and cumulative effects on household users, traditional agriculture users and other higher and lower priority licensees	<ul style="list-style-type: none"> <li>From the <i>Water Act</i>, Section 82(3)(b): <i>the transfer of the allocation, in the opinion of the Director, does not impair the exercise of rights of any household user, traditional agriculture user or other licensee other than household user, traditional agriculture user or other licensee who has agreed in writing that the transfer of the allocation may take place</i></li> </ul>
With respect to irrigation, the suitability of the land to which the allocation of water is to be transferred for irrigated agriculture	<ul style="list-style-type: none"> <li>The land must be suitable for irrigated agriculture: Class 4 or better in accordance with the standards of Alberta Agriculture and Rural Development</li> </ul>
The historic volume, rate and timing of the diversion under the original and proposed licence	
Location of the existing diversion and the proposed new diversion	
Water quality (including public health and safety and assimilative capacity)	<ul style="list-style-type: none"> <li>No significant adverse effect on public health and safety</li> <li>No significant adverse effect on assimilative capacity</li> </ul>
Linkages between surface and ground water	<ul style="list-style-type: none"> <li>No significant adverse effect on groundwater</li> </ul>

and the effects or changes in overall water use	quantity or quality
Existing, potential and cumulative effects on the operations of reservoirs or other water infrastructure	<ul style="list-style-type: none"> <li>No significant adverse effects on operations unless the reservoir or infrastructure licensee agrees it is feasible to adjust operations to mitigate effects</li> </ul>
Master Agreement on Apportionment (Alberta's commitments to Saskatchewan)	<ul style="list-style-type: none"> <li>The terms of the Apportionment Agreement will be respected</li> </ul>
First Nation Rights and Traditional Uses	<ul style="list-style-type: none"> <li>Government of Alberta First Nation consultation policies and guidelines on Land Management and Resource Development.</li> <li>Agreement with First Nations.</li> </ul>
The <i>Water Act</i> (82)(5)(c)(iv) also provides that the Director may consider any other matters applicable to the transfer of the allocation that the Director considers relevant.	

## **Appendix C (1)**

### **Example**

#### **Public Notice**

**[name of transferee]**

#### ***Water Act***

### **Notice Of Application For A Transfer Of Water Allocation**

**[name of transferor – source of supply]**

Notice is given that [name of applicant] filed an application to [permanently or temporarily] transfer [1] cubic metres of water under a licence issued to divert water from [source of supply and point of diversion noted on the licence] to [proposed point of diversion] on the [water body name]. The allocation of water to be transferred was licensed to [name of existing licensee] on [date] for a total allocation of [2] cubic metres. The (type) purpose of the water use (either remains unchanged or will be changed to)\_\_\_\_\_purpose. Under Section 83 of the *Water Act*, the Director may withhold up to [3] cubic metres (10%) of the allocation of water being transferred. Any water withheld may be licensed to the provincial Government for protection of the aquatic environment or implementation of a water conservation objective.

Any person who is directly affected by this application may submit a statement of concern to:

Environment and Sustainable Resource Development

[6] Region

[7]

Phone:

Fax:

within 30 days of the providing of this notice. Please quote File No. [8].

In accordance with Section 81(6) of the *Water Act*, a public review of this application must be conducted. As part of the public review, the applicant will hold an open house at [name of facility] on [date] between the hours of [4] and [5] inclusive.

Further information regarding this project can be obtained from:

(Insert applicant's contact information here)

Statements filed regarding this application are a public record, which is accessible by the public.

Failure to file a statement of concern affects a person's right to file a notice of appeal with the Environmental Appeals Board.

## Appendix C (2)

### Example

#### Public Notice

[Transferee]

*Water Act*

### Notice Of Application For The Transfer Of Water Allocation And Water Diversion Location Of A Licence [transferor] – [source]

Notice is given that [transferee] and [transferor] have filed an application to transfer [all or a portion] of the [transferor] Licence from the current diversion point on [source] at [land location] to a new point of diversion on [source] at [land location].

[state purpose] The transfer will consist of 7407 cubic metres (6 acre-feet) of water with priority number 1985-10-10-001.

In accordance with Section 81(6) of the Water Act a public review of the application is required. Any person wishing to attend a public review of this application is asked to call or write to Alberta Environment and Sustainable Resource Development at the address noted below, to register for this public review, within 14 days of this notice. Dates and places where the public review will be held will be set based on the response to the requests for public review.

As per Section 83(1) of the Water Act, up to 10% of the transferred allocation may be withheld to protect the aquatic environment or implement a water conservation objective.

Any person who is directly affected by the application may submit a statement of concern to:

Environment and Sustainable Resource Development  
[address of District Office]  
Phone: [District office]  
Fax: [District office]

within 30 days of the providing of this notice.

Please quote file number: [of transferors licence file number or new file number of transferee]

Further information regarding this project can be obtained from:

[transferor] or [transferee]

Statements filed regarding this application are public records, which are accessible by the public.

Failure to file statements of concerns may affect the right to file a notice of appeal with the Environmental Appeal Board.

## Appendix D

### Public Review Guidelines

#### Notice of Public Review

1. The applicant may be required to publish a Director-approved notice for applications involving diversion activities with potential local impact. The notice shall be published in a local newspaper in which the municipality normally publishes development notices.

and

2. The applicant may be required to publish a Director-approved notice in a regional newspaper for applications that may have a regional impact beyond the municipal boundary in which the project transfer is located, such as basin water management issues.

For all applications the public notice shall be published in the format as instructed by the Director. Payment of publication fees is the responsibility of the applicant.

#### Public Open House

3. The applicant shall host and pay all costs associated with an open house for public input. Notice of the open house shall be published at least 2 weeks in advance of the open house and the open house shall be hosted at least one week before the end of the published notice period as stated in the Public Notice. Documents describing the proposed transfer must be on display at the open house for a minimum of 2 hours during normal office hours and a minimum of 2 hours during evening hours. The documents should include a copy of the application, supporting plans and any other documentation pertinent to the transfer and a copy of the public notice indicating when the deadline for submission of statements of concern to the department. The open house must be attended by at least one informed representative of the prospective transferee.
4. At the completion of the review process the applicant shall provide a public consultation summary report to Environment and Sustainable Resource Development. The report shall include a list of the attendees and concerns raised at the open house.
5. The Director may require additional public reviews or other forms of public reviews as considered appropriate.

Note: A public open house may not be required for transfers where the Director is of the opinion that a public open house is not required. (eg: small projects involving moving a short distance on the same stream without a change in ownership or purpose, or diversion timing). Other forms of public review may be more appropriate. See Appendix C (2).

## Appendix E

### *Water Act* Licence Fee Schedule

The licence fee shall be paid for each licence issued and shall be as follows:

Water Allocation in Cubic Metres (m <sup>3</sup> )	\$ Fee
0 – 62,500 m <sup>3</sup>	Nil
62,501 – 75,000 m <sup>3</sup>	\$ 90.00
75,001 – 87,500 m <sup>3</sup>	\$ 105.00
87,501 – 100,000 m <sup>3</sup>	\$ 120.00
100,001 – 112,500 m <sup>3</sup>	\$ 135.00
112,501 – 125,000 m <sup>3</sup>	\$ 150.00
125,001 – 250,000 m <sup>3</sup>	\$ 225.00
250,001 – 375,000 m <sup>3</sup>	\$ 300.00
375,001 – 500,000 m <sup>3</sup>	\$ 375.00
500,001 – 625,000 m <sup>3</sup>	\$ 450.00
625,001 – 750,000 m <sup>3</sup>	\$ 525.00
750,001 – 875,000 m <sup>3</sup>	\$ 600.00
875,001 – 1,000,000 m <sup>3</sup>	\$ 675.00
1,000,001 – 1,125,000 m <sup>3</sup>	\$ 750.00
1,125,001 – 1,250,000 m <sup>3</sup>	\$ 825.00
1,250,001 – 2,500,000 m <sup>3</sup>	\$ 900.00
2,500,001 – 3,750,000 m <sup>3</sup>	\$ 975.00
3,750,001 – 5,000,000 m <sup>3</sup>	\$ 1,050.00
5,000,001 – 6,250,000 m <sup>3</sup>	\$ 1,125.00
6,250,001 – 7,500,000 m <sup>3</sup>	\$ 1,200.00
7,500,001 – 8,750,000 m <sup>3</sup>	\$ 1,275.00
8,750,001 – 10,000,000 m <sup>3</sup>	\$ 1,350.00
10,000,001 – 11,250,000 m <sup>3</sup>	\$ 1,425.00
11,250,001 – 12,500,000 m <sup>3</sup>	\$ 1,500.00
12,500,000 m <sup>3</sup>	\$ 1,500.00 plus \$15.00 for each additional 125,000 m <sup>3</sup> or portion thereof over 12,500,000 m <sup>3</sup>

## Appendix F

The following is a certification for department use. For some of the questions the applicant can provide information to facilitate the completion of the certification through the completion of a licensee declaration document See Appendix H.

### Certification for Licence in Good Standing

1. Is there a licence?

Attach copy of licence, approved plans and amendments, to establish all the boundaries of the water right. To whom was the licence first issued? Has the licence been amended to reflect a new owner? If not, the licence is not in good standing. Has the Department received notification of a new owner? Are there any licence amendments that should be attached to the licence? Is the licence tied to other files, works or licences and what is the connection?

2. Is the licence expired?

If the licence is expired, the licence is not in good standing. See Section 59 of the Water Act as part of this determination. Provide comment.

3. (a) Is the licence currently under suspension?

Has suspension been initiated prior to “in good standing” determination? If yes, the licence is not in good standing. Provide comment and attach a copy of the most recent correspondence/decision.

3. (b) Is the licence currently being considered for cancellation?

Has a cancellation notice been sent to the licensee? If yes, the licence is not in good standing. Provide comments and attach a copy of the most recent correspondence/decision.

4. (a) Is the licence currently subject to an Investigation, a Water Management Order or an Enforcement Order?

Obtain written confirmation of the above from the Department’s Regional Compliance Team. If the licence is subject to an Order, it is not in good standing until written confirmation is obtained from Compliance advising of any resolution of the Order. If the Order remains in effect, the licence is not in good standing.

4. (b) Is there an outstanding complaint that may result in compliance or enforcement action?

If yes, the licence is not in good standing. Provide appropriate documentation.

4. (c) Is the licence subject to a prosecution, administrative penalty, civil matter or EAB appeal?

If yes, the licence is not in good standing. Provide appropriate documentation.

5. Is the licensed project in compliance with the terms and conditions of the licence under review?

Staff must very closely review the actual wording of the licence to determine the specific terms and conditions that the licensee must comply with. If the project is not in compliance with the terms and conditions of the licence, then the licence is not in good standing.

Staff may conduct a field inspection to evaluate the project. Attach a copy of the inspection report. An amendment or other action may be required before the licence will be considered in good standing. The references to the Water Act for some of the items outlined below point to the amendment provisions that can be considered.

1. Determine whether the existing works are capable of diverting the full licensed allocation - (WA Section 54(1)(a)(vii)).
  - (a) Constructed works are as shown on approved plans and the existing works are capable of diverting water.
  - (b) Reservoir area/capacity/structures (if applicable) are as shown on approved plans and are capable of operating accordingly.
2. Point of diversion is as shown on approved plans - (WA Section 54(1)(b)(vi)).
3. Point of use is as shown on approved plans - (WA Section 54(1)(b)(v)).
4. Capacity or rate of diversion meets licensed maximum - (WA Section 54(1)(b)(i) or (ii)).
5. Any additional project specific conditions, which are included in the licence terms and conditions - (WA Section 142 (1)(e)).
6. Is the licensee the landowner? If not, written consent from the landowner is required. Are consents to affect other lands current and valid? This should include access to the point of diversion, adjacent lands, road allowances, use of works agreements, conveyance agreements, etc.
7. Is submission of a water use return a condition of the licence and have these reports been received? If the condition requires that water use information is recorded and retained, water use information will be requested. Overuse of water may initiate compliance measures (WA Section 142(1)(e)). Water use reports must be compared to inspection reports on file.
8. Is the licensee in compliance with the timing of the diversion as stated on the licence? (ie: Is diversion allowed during flood stage only?) (WA Section 54(b)(iv)).
9. Is the licence used for the purpose stated on the licence? (WA Section 142(1)(e)).

#### CERTIFICATION STATEMENT

Based on a review of records in File No. ' \_\_\_\_\_ ', on this date Licence No. (Only use the EMS Approval Number if the licence number is recorded as an EMS number) is in good standing.

\_\_\_\_\_  
Reviewer's Signature

\_\_\_\_\_  
Date

Based on a review of records in File No. ' \_\_\_\_\_ ', on this date, Licence No. (Only use the EMS Approval Number if the licence number is recorded as an EMS number) is NOT in good standing.

\_\_\_\_\_  
Reviewer's Signature

\_\_\_\_\_  
Date

**Appendix G  
Application Form for Transfer of Water Allocation**

**PART 1A  
EXISTING LICENCE**

IMPORTANT: A LICENCE MUST BE IN GOOD STANDING TO BE ELIGIBLE FOR TRANSFER (SEE SECTION 1B).

**EXISTING LICENSE INFORMATION**

Name or Company Name:		Home Telephone:
Address (Street, PO Box, etc.):		Bus. Telephone:
		Fax:
Place, Province:	Postal Code:	Email:

**CONTACT PERSON FOR LICENSEE (IF DIFFERENT FROM ABOVE)**

Name or Company Name:		Home Telephone:
Address (Street, PO Box, etc.):		Bus. Telephone:
		Fax:
Place, Province:	Postal Code:	Email:

**EXISTING LICENCE INFORMATION**

Licence Number*:	File Number:
Approved Plan Numbers*:	
Purpose:	Source:

\* Attach copies (e.g. licence, interim licence, licence amendments, approved plans, etc.)

Is the licence the result of a previous transfer where the transferred allocation is to revert back to the original licence?  Yes  No If yes, attach relevant documentation describing the temporary transfer.

**PROPOSED TRANSFER INFORMATION**

The proposed transfer is:  Permanent  Temporary

If temporary, describe the terms of the transfer:

Date of expiry for the temporary transfer:
Additional terms of the temporary transfer:

The proposed transfer is for:  the entire allocation  a portion of the allocation

Describe the allocation to be transferred:

Priority Number:	
Quantity of water to be transferred (indicate units):	
Rate of diversion to be transferred (indicate units):	
Second priority number (if applicable):	
Quantity of water to be transferred (indicate units):	
Rate of diversion to be transferred (indicate units):	
<b>Are you the Licensee?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>If no, please attach a copy of the written consent of the Licensee.</b>	
<b>Are you the owner of the land or undertaking for the existing licence project?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>If no, please attach a copy of the written consent of the owner of the land or the undertaking.</b> If working in the 'public lands' administered by Alberta Environment and Sustainable Resource Development, include the disposition number obtained to undertake the activity.	Consent attached? <input type="checkbox"/> Yes <input type="checkbox"/> No Disposition No. _____

I hereby certify that I have read and understand the above information, it is correct to the best of my knowledge, and I agree to the above allocation of water being transferred.

\_\_\_\_\_  
Date (dd/mm/yy)      Print Name      Signature      Company Name

**PART 1B**

**EXISTING LICENCE**

**CERTIFICATION OF LICENCE IN GOOD STANDING**

Complete and attach a Licensee Declaration Document.

## PART 2

### PROPOSED LICENSEE

#### PROPOSED LICENSEE INFORMATION

Name or Company Name:		Home Telephone:
Address (Street, PO Box, etc.):		Bus. Telephone:
		Fax:
Place, Province:	Postal Code:	Email:

#### CONTACT PERSON FOR LICENSEE (IF DIFFERENT FROM ABOVE)

Name or Company Name:		Home Telephone:
Address (Street, PO Box, etc.):		Bus. Telephone:
		Fax:
Place, Province:	Postal Code:	Email:

#### PROPOSED LICENCE INFORMATION

Point of diversion (legal land description):
Point(s) of use (legal land description):
Source:
Purpose:
Annual quantity to be transferred (indicate units):
Rate of diversion to be transferred (indicate units):
Proposed rate of diversion if more/less than transferred rate of diversion (indicate units)

<b>Are you the owner of the land or undertaking for the proposed project?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>If no, please attach a copy of the written consent of the owner of the land or the undertaking for the proposed project.</b> If working in the 'public lands' administered by Alberta Sustainable Resource Development, include the disposition number obtained to undertake the activity.	Consent attached? <input type="checkbox"/> Yes <input type="checkbox"/> No Disposition No. <input type="text"/>

The proposed transfer is:       Permanent                       Temporary

If temporary, describe the terms of the transfer:

Date of expiry for the temporary transfer:
Additional terms of the temporary transfer:



**Appendix H  
Licensee Declaration Form**

**Water Licence – In Good Standing  
Licensee Declaration**

**UNLESS OTHERWISE STATED, COMPLETE ALL PARTS OF THE FORM**

<b>File No.:</b>		<b>Licence No: Dated</b>
<b>Licensee Name:</b>		<b>Mailing Address:</b>
<b>Licensee Representative Name:</b> (name and title)		<b>Phone:</b>  <b>Fax:</b> (if applicable)
<b>Declaration Completed by: (If different than the licensee)</b> (name and title)	<b>Date Declaration Completed:</b>	<b>Cell Phone:</b> (if applicable)
		<b>Email:</b> (if applicable)

<b>Purpose:</b> (as stated on licence) Provide written comment of actual purpose for which the licence is used.	<b>Priority No.</b>
<b>Source of Water:</b> (as stated on licence) Provide written comment of source of supply actually used.	<b>Point (s) of Diversion:</b> (as stated on licence). Provide written confirmation that point of diversion is as shown on approved plan no. XXX.
	<b>Point(s) of Use:</b> As stated on licence or approved plan(s). If a plan is used, please state which one applies.
<b>Annual Volume for Diversion:</b> (State units used and as recorded on the licence)	<b>Maximum Rate of Diversion:</b> (State units used and as recorded on the licence)
<b>Timing of Diversion:</b> Are there any timing restrictions (time periods of use) on your licence Yes/No. If yes, state restricted period	



Are reservoir area/capacity/structure as shown on the approved plans and are they capable of operating in accordance with the approved plans?

Is the Licencee the Landowner?

At the Point of Diversion?

At the Point of Use?

Of the Delivery System?

Yes  
/ No

Yes  
/ No

Yes  
/ No

Additional Declaration Comments

**Statement of Declaration:**

The information given on this form is true to the best of my knowledge.

**Reviewer's Signature (Person who completed the declaration):**

**Printed Name:**

**Date:**

**Licensee Representative Signature (if different from the Reviewer):**

**Printed Name:**

**Date:**

**OFFICE USE: (These following sections will be completed by a Water Act Approvals Writer)**

**Reviewed by:**

**Review Date:**

**Follow-up  
Required Y/N:  
Specify**

**Field Inspection Required Y/N**

**Field Inspection Completed by:**

**Field Inspection Date:**

---

<b>Outstanding/pending compliance items or related compliance history.</b>	<b>Date Referred to Compliance</b>	<b>Date Referral Received</b>	<b>Comments:</b>
<b>LICENCE IN GOOD STANDING: Y/N</b>	<b>If no, specify follow-up action</b>	<b>ASSESSMENT DATE:</b>	<b>Signature of Approval Writer:</b>

**Additional Approval Writer Assessment Comments:**